

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE MAY 5, 2009

AMENDED IN SENATE APRIL 27, 2009

## SENATE BILL

**No. 218**

**Introduced by Senator Yee**

**(Coauthors: Senators DeSaulnier and Runner)**

(Coauthors: Assembly Members Beall, DeVore, Furutani, Portantino,  
and Smyth)

February 23, 2009

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An act to add Section 92034 to the Education Code, and to amend  
Section 6252 of the Government Code, relating to public records.

### LEGISLATIVE COUNSEL'S DIGEST

SB 218, as amended, Yee. Public records: state agency: nonprofit  
entity.

The California Public Records Act requires state and local agencies  
to make their records available for public inspection and to make copies  
available upon request and payment of a fee unless they are exempt  
from disclosure. The act defines the term “state agency” terms “local  
agency” and “state agency” for purposes of the act.

*This bill would revise the definition of the term “local agency” to  
additionally include auxiliary organizations established for the purpose  
of providing support services and specialized programs for the general  
benefit of a community college, or a nonprofit entity that operates  
certain campus facilities, as specified, at a community college.*

This bill would revise the definition of the term “state agency” to  
additionally include ~~an organization operating pursuant to specific  
provisions of the Education Code, or an entity that operates a campus~~

~~facility, including, but not limited to, a bookstore, sports complex, arena, theater, student center, parking program, or other similar activity at a California public postsecondary education institution. any entity in which an official of the University of California or the California State University participates as a director as part of his or her official duties, any entity that operates a commercial service for either of those entities, or any entity that has as its purpose to promote the campuses of either institution. The bill would include any entity whose governing instrument provides that it is to receive gifts, property, and funds to be used for the benefit of either institution, and has any of its directors, governors, or trustees either appointed or nominated by the respective institutions. The bill would also include any entity that has any of its directors, governors, or trustees appointed, nominated or subject to approval by the regents or trustees and whose purpose is to promote the regents or the trustees, or to receive gifts, property, and funds on behalf of the regents or trustees.~~

*The bill would also include in the definition of “state agency” any entity that is designated as an auxiliary organization by the regents or the trustees, and also any student body organization established for the purpose of providing certain essential activities at a California State University under the supervision of university officials.*

This bill would also provide that it is the intent of the Legislature to reject the court’s interpretation of state law regarding the application of the act to auxiliary organizations, such as the CSU Fresno Association, at issue in California State University, Fresno Assn., Inc. v. Superior Court (2001) 90 Cal.App.4th 810.

*This bill would state the intent of the Legislature that the bill not affect or restrict the ability of persons or entities to make gifts to a state or local agency on condition of anonymity.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 92034 is added to the Education Code,  
2     to read:  
3     92034. Chapter 3.5 (commencing with Section 6250) of  
4     Division 7 of Title 1 of the Government Code applies to ~~any entity~~  
5     ~~whose purpose is to promote or assist the Regents of the University~~  
6     ~~of California, or to receive gifts, property, and funds to be used~~

1 ~~for the benefit of the regents, or any person or organization having~~  
2 ~~an official relationship with the regents; the following entities:~~

3 (a) *An entity in which an official of the University of California*  
4 *participates as a director as part of his or her official duties.*

5 (b) *An entity that operates a commercial service for the benefit*  
6 *of a campus of the University of California on a campus or other*  
7 *property of the University of California.*

8 (c) *An entity whose governing instrument provides in substance*  
9 *both of the following:*

10 (1) *That its purpose is to promote or assist any campus of the*  
11 *University of California, or to receive gifts, property, and funds*  
12 *to be used for the benefit of that campus or any person or*  
13 *organization having an official relationship therewith.*

14 (2) *That any of its directors, governors, or trustees are either*  
15 *appointed or nominated by, or subject to, the approval of an official*  
16 *of any campus of the University of California, or serve, ex officio,*  
17 *from the membership of the student body or the faculty or the*  
18 *administrative staff of a campus.*

19 (d) *Any entity whose governing instrument provides in substance*  
20 *both of the following:*

21 (1) *That its purpose is to promote or assist the Regents of the*  
22 *University of California, or to receive gifts, property, and funds*  
23 *to be used for the benefit of the regents of the University of*  
24 *California, or any person or organization having an official*  
25 *relationship therewith.*

26 (2) *That any of its directors, governors, or trustees are either*  
27 *appointed or nominated by, or subject to, the approval of the*  
28 *Regents or an official of the University of California, or serve, ex*  
29 *officio, from the membership of the regents or the administrative*  
30 *staff of the University of California.*

31 (e) *An entity that is designated by the regents as an auxiliary*  
32 *organization of the University of California.*

33 SEC. 2. Section 6252 of the Government Code is amended to  
34 read:

35 6252. As used in this chapter:

36 (a) "Local agency" includes a county; city, whether general law  
37 or chartered; city and county; school district; municipal  
38 corporation; district; political subdivision; or any board,  
39 commission or agency thereof; *an entity organized pursuant to*  
40 *Section 72670 of the Education Code or a nonprofit entity that*

operates a campus facility, including, but not limited to, a bookstore, sports complex, arena, theater, student center, parking program, or other similar activity at a community college; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(b) “Member of the public” means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

(c) “Person” includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) “Public agency” means any state or local agency.

(e) “Public records” includes any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. “Public records” in the custody of, or maintained by, the Governor’s office means any writing prepared on or after January 6, 1975.

(f) “State agency” means every state office, officer, department, division, bureau, board, and commission or other state body or agency, an organization operating pursuant to Section ~~72670~~, ~~89305~~, 89300, 89901, or 92034 of the Education Code, or ~~an~~ a nonprofit entity that operates a campus facility, including, but not limited to, a bookstore, sports complex, arena, theater, student center, parking program, or other similar activity at a California public postsecondary education institution, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(g) “Writing” means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

SEC. 3. It is the intent of the Legislature in enacting this act to construe and clarify the meaning and effect of existing law and to reject the court’s interpretation of state law regarding the application of the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the

1 Government Code) to auxiliary organizations, such as the CSU  
2 Fresno Association, at issue in California State University, Fresno  
3 Assn., Inc. v. Superior Court (2001) 90 Cal.App.4th 810.

4 *SEC. 4. It is the intent of the Legislature that nothing in this*  
5 *act affects or restricts any present or existing ability of persons*  
6 *or entities to make gifts to a state or local agency on the condition*  
7 *of anonymity.*

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